



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Ms. Judith A. Hunter
Paralegal
City Attorney's Office
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR95-1547

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36836.

The City of Georgetown (the "city") received an open records request for the "offense reports, narrative reports, incident reports, or investigative reports" regarding the assault of the requestor's son, a minor. You contend that because this matter has been forwarded to the district attorney who intends to present the case to the grand jury, the requested information may be withheld pursuant to the "law-enforcement exception," section 552.108 of the Government Code.

Although you raise section 552.108, this office believes that the requested information is made confidential under the Family Code and thus more properly comes under the protection of section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." More specifically, the requested information is made confidential by section 261.201(a) of the Family Code. *See* Act of April 20, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 25, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3924 (Vernon). Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

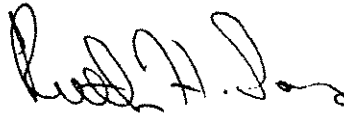
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, *the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.*

Act of May 25, 1995, 74th Leg., R.S., ch. 751, § 93, 1995 Tex. Sess. Law Serv. 3924 (Vernon) (emphasis added). Because the requested records pertain to an investigation of physical abuse of a child, the records must be withheld pursuant to the above quoted provisions.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/rho

Ref.: ID# 36836

Enclosures: Submitted documents

¹Children's Protective Services ("CPS"), however, has promulgated a regulation governing the release of CPS case information to CPS clients, which provides as follows:

A child protective services client may review all information in the client's case record except the identity of the complainant, information exempted from disclosure under the Open Records Act, and information exempted under other state laws.

40 T.A.C. § 700.103. Although we do not address here whether the requestor is a client of CPS for purposes of the above-quoted regulation, we do note that the requestor might be entitled to review the information in the possession of CPS under the regulation.

bcc: Ms. Betty-Jo Patterson
1821 Hart Street
Georgetown, Texas 78626
(w/o enclosures)